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09/755,408

01/05/2001

Robert I. Nurse

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08/30/2006

THE PROCTER & GAMBLE COMPANY
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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/755,408

Applicant(s)

NURSE, ROBERT I.

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2006.
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,8-14,16,17 and 21-34 is/are pending in the application.
4a) Of the above claim(s) 1,3-5,8-14,16,17 and 28-33 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 21-27 and 34 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

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Claims 2, 6, 7, 15 and 18-20 have been canceled. Claims 1, 3-5, 8-14, 16, 17 and 21-34 are pending. Claims 1, 3-5, 8-14, 16, 17 and 28-33 have been withdrawn.

Applicant's election of claims 21-27 and 34 in the reply filed on February 7, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 21-27 and 34 will be treated on their merits.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-26 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simmons in view of Syrek.

Simmons discloses a container 10 having a plurality of upstandable sidewalls (the upstandable sidewalls of liner 28) interconnected by a floor pan (the floor portion of liner 28), at least one upstandable reinforcing panel (one of the pair of sidewalls 20) releasably connected to at least one of the sidewalls (at nipple 38 and port 40 connections), the sidewall is reinforceable with the upstanding reinforceable panel, the reinforceable panel being releasable from the sidewall without separation from the container (the reinforceable panel separates from the sidewall at the nipple/port connections while remaining connected to the container at a hinged connection adjacent the bottom edge of the reinforceable panel so that the panel may fold horizontally when the container is collapsed as shown in Fig. 2). Simmons fails to disclose a domed floor. **Please note that the domed floor is supported at page 4, lines 10-14 of**

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applicant's specification wherein it has been stated that "the floor pan 22 may be domed convex inwardly to increase strength as is known in the art. Such statement is construed as an admission by applicant that the domed floor is prior art. In addition, Syrek teaches a domed floor 102. It would have been obvious to add the curvature of a dome to the floor to increase the load strength of the floor to prevent buckling, deformation or failure.

Re claim 34, insofar as disclosed the present invention includes a floor pan support 48 articulably joined to the reinforceable panel 42. Simmons discloses a similar construction with floor portion 14 articulably joined to reinforceable panel 20, the reinforceable panel 20 is removably attachable to the outer surface of floor pan through an indirect connection of the reinforceable panel 20 to the sidewall of the liner which is connected to the floor of the liner.

Re claims 25 and 26, Simmons discloses the invention except for the opening in the port would not be considered a slot because a circular hole is not elongated. It would have been obvious to modify the circular hole and the correspondingly shaped nipple to be elongated to provide an alignment feature and to extend the length of engagement to make the connection stronger.

Claims 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simmons in view of Syrek as applied to claim 26 above, and further in view of Spykerman et al. (Spykerman).

The combination discloses the invention except for the notches. Spykerman teaches hand graspable notches 121, 131. It would have been obvious to add the notches to the reinforceable panel to provide easier grasping of the panel. The Official notice taken in the Office action mailed April 13, 2006 that plural finger grip notches are well known has not been challenged in

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applicant's July 12, 2006 response. Therefore, the Official notice is being treated as a prior art admission. It would have been obvious to modify the single hand notch to have a plurality of finger notches to enhance the comfort of the hand grip.

Applicant's arguments with respect to claims 21-27 and 34 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535.

The examiner can normally be reached on M-Th 6:30-5.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc